

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTHERN ILLINOIS**

JACQUELINE STEVENS,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendant.

13CV3382

Judge Castillo

Mag. Judge Martin

May 6, 2013

FILED

MAY X 6 2013

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Jacqueline Stevens ("Plaintiff") brings this action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et. seq. for declaratory and injunctive relief to compel the disclosure and release of agency records improperly withheld from Plaintiff by Defendant United States Department of Homeland Security ("DHS") and its component Office of Inspector General ("OIG").
2. Plaintiff challenges the failure of the OIG to disclose documents in response to Plaintiff's March 20, 2013 Freedom of Information Act request ("Plaintiff's FOIA Request"). Plaintiff's FOIA Request sought records pertaining to the deportation of Adijat Edwards, in particular all investigative materials in the possession of Special Agent Gerardo Guzman or the Office

of Inspector General. Defendant has failed to comply with statutory deadlines and has failed to disclose a single record. Plaintiff asks the Court to order immediate disclosure of all responsive records.

JURISDICTION AND VENUE

3. This court has jurisdiction over this matter pursuant to the FOIA, 5 U.S.C. §§ 552(a)(4)(B), and 28 USC § 1331 and 1361.
4. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1391(e) and 1402(a)(1), as Plaintiff resides in and does business in the Northern District of Illinois.

PARTIES

5. Plaintiff Jacqueline Stevens is a professor of political science and director of the Deportation Research Clinic at Northwestern University. The office and principal place of residence of Professor Stevens are in Cook County, Illinois.
6. Defendant United States Department of Homeland Security is the federal agency responsible for enforcing immigration laws. OIG is the component of DHS responsible for investigating agency misconduct. DHS is an agency within the meaning of 5 U.S.C. § 552(f).

STATEMENT OF FACTS

7. On Feb. 8, 2011, Adijat Edwards was deported to Nigeria from the United States of America by the Immigration and Customs Enforcement (ICE) component of DHS. Edwards was deported through an expedited removal process while awaiting a response to a petition she had earlier filed seeking U.S. citizenship.
8. Following her deportation, Edwards' case was reviewed by the OIG Chicago field office. Edwards claimed that ICE agents had robbed her of \$1200 in cash and jewelry valued at \$3000 - \$4000. An investigation of the circumstances of her deportation was conducted by Special Agent Gerardo Guzman.
9. On Feb. 20, 2013, Edwards returned to the United States at the expense of DHS. DHS agreed to her return in settlement of a suit currently being reviewed at the 8th Circuit Court of Appeals.
10. On Mar. 20, 2013, Plaintiff filed a FOIA request with OIG seeking the release of all records pertaining to Edwards' case, along with a waiver from Edwards allowing OIG to release those records to Plaintiff. See Exhibit A.
11. On Mar. 28, 2013, OIG sent to Plaintiff by mail an acknowledgment of Plaintiff's FOIA Request. OIG stated it had received the request on Mar. 20,

2013. At that time, OIG made no determination as to the substance of Plaintiff's FOIA Request. See Exhibit B.

12. Under 5 U.S.C. § 552(a)(6)(A), federal agencies are granted a 20 working day time limit in which to make a determination in response to a request for records. OIG received Plaintiff's FOIA Request on Mar. 20, 2013. The 20 working day time limit expired on Apr. 17, 2013.

13. Through the date of this pleading, OIG has not disclosed a record to Plaintiff or made an adverse determination as to the substance of Plaintiff's FOIA Request.

CLAIM FOR RELIEF

Defendant DHS Failed to Disclose and Release Records Responsive to Plaintiff's First and Second Requests

14. Plaintiff repeats and alleges each and every allegation contained in paragraphs 1 – 12 as if repeated and reincorporated herein.

15. Failure to respond to a FOIA request within the time limits established by 5 U.S.C. § 552(a)(6)(A) and (a)(6)(B) constitutes a constructive denial of information.

16. By withholding this information, OIG, a component of DHS, has violated Plaintiff's rights to DHS records under 5 U.S.C. § 552(a)(3)(A) and (a)(6)(C).

17. Plaintiff has exhausted all applicable administrative remedies as outlined in 5 U.S.C. § 552(a)(6)(C)(i), with respect to OIG's wrongful withholding of the requested records.

18. Plaintiff is entitled to injunctive relief with respect to the release and disclosure of the requested records, under 5 U.S.C. § 552(a)(4)(B).

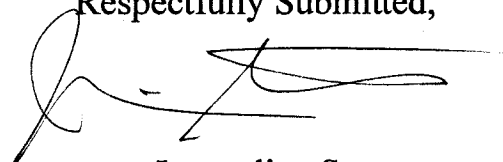
Requested Relief

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Order Defendant DHS and its component, OIG, to disclose the requested records in their entireties and make copies available to Plaintiff;
3. Expedite this action pursuant to 28 U.S.C. § 1657(a);
4. Award Plaintiff costs and fees in this action as provided by 5 U.S.C. § 552(a)(4)(E);
5. Grant such relief as the Court may deem just and proper.

Dated: May 6, 2013

Respectfully Submitted,



Jacqueline Stevens
601 University Place, Evanston, IL, 60208
jacqueline-stevens@northwestern.edu
847-467-2093

EXHIBIT A

From: Jackie Stevens
To: FOIA_OIG
Subject: Office of Inspector General investigative materials, Adijat Edwards 079 053 516,
Date: Wednesday, March 20, 2013 1:38:48 PM
Attachments: EDWARDSAdijatIDPrivacyWaiver.jpg

To Whom It May Concern

I write under the Freedom of Information/Privacy Act to request all items created, received, or at any time possessed by Special Agent Gerardo Guzman, Chicago Field Office pertaining to ADIJAT EDWARDS, alien number 079 053 516:

I am requesting:

-All documents, reports, email, notes of any sort, recordings, memorandums, forms, Special Agent Gerardo Guzman, ICE Chicago Field Office created, received or possessed about ADIJAT EDWARDS maintained in any medium.

-This includes but is not limited to correspondence about EDWARDS Expedited Removal Order, airline tickets and receipts, and all forms concerning the confiscation of her property and documents.

I have attached Ms. Adijat's Privacy Waiver granting her consent to release these documents to me. (Please note that this document also contains her statement sworn under penalty of perjury as to her identity.)

Please note that Ms. Edwards has waived her privacy right to her medical records as well and that there should be no redactions from documents pertaining to this request based on a medical exemption.

I am a scholar and and a journalist and will not be using this information for any financial benefit but to assist my research, teaching and publications on deportation misconduct. I am therefore requesting a fee waiver.

Thank you for your assistance. If you have any questions please contact me here or at 847-467-2093.

Sincerely,
Jacqueline Stevens

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Jacqueline Stevens
Professor
Political Science and Legal Studies Board
Northwestern University

Director
Deportation Research Clinic
Buffett Center for International and Comparative Studies
<http://www.cics.northwestern.edu/programs/deportationresearch/>

phone 847-467-2093
fax 847-491-8985

Mail
601 University Place
Department of Political Science

Northwestern University
Evanston, IL 60208

<http://www.jacquelinestevens.org>
<http://stateswithoutnations.blogspot.com>

PRIVACY AND CONFIDENTIALITY WAIVER

To Whom It May Concern:

My name is Adijat Edwards and I was born in Nigeria on November 24, 1970.

Jacqueline Stevens has my authorization to obtain all personal information about me from any private or public agency and any attorney or individual in the United States and all other countries, including Nigeria. Please note that this includes all medical information.

I hereby waive my right to privacy, and I authorize all federal agencies of the United States to release any and all information, relating to me, including all medical records and references to medical records, to

Professor Jacqueline Stevens
601 University Place
Political Science Department
Northwestern University
Evanston, IL 60208

This waiver is in accordance with the rules of Title 5 U.S.C. Section 552 and includes, but is not limited, to records and employee statements, including email, notes, and forms of the U.S. Customs and Border Protection, Immigration and Customs Enforcement, the Department of Justice, the Federal Bureau of Investigation, and the Executive Office for Immigration Review.

Under penalty of perjury, I also hereby declare that I am the person described above and understand that any falsification of this statement is punishable under the provisions of Title 18, United States Code (U.S.C.), Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both; and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of Title 5, U.S.C., Section 552a(i)(3) as a misdemeanor and by a fine of not more than \$5,000.

Signed,



Adijat Edwards

Date

03/19/2013

Date of Birth: 11/24/1970

Address in Nigeria: #1. PA Rasasq Agoro st off oremeru st igbogbo ebute ikorodu. Lagos

Address in the U.S.: 816 21st avenue north apt 221 Minneapolis MN 55411

EXHIBIT B



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

MAR 26 2013

Ms. Jacqueline Stevens
Northwestern University
Department of Political Science
601 University Place
Evanston, IL 60208

Subject: Freedom of Information Act Request No. 2013-070 – Acknowledgement Letter

Dear Ms. Stevens:

This acknowledges receipt of your Freedom of Information Act/Privacy Act (FOIA/PA) request to the Department of Homeland Security (DHS) Office of Inspector General (OIG), dated March 20, 2013, and seeking all records pertaining to Adijat Edwards (copy enclosed for reference). Your request also seeks a fee waiver. DHS-OIG received your request on March 20, 2013, and assigned it the above-referenced tracking number.

Your request has been placed in the queue for processing in the order in which it was received. We anticipate responding to your request within 20 business days. Please note, however, that the actual time required to respond to your request depends on how many responsive records and the types of records identified and located in our records search. Please be assured that DHS-OIG will respond to your request as expeditiously as possible. We are using our best efforts to process all requests with due diligence on a first-in, first-out basis. We, therefore, appreciate your patience as we proceed with your request.

We have not yet made a decision on your request for a fee waiver. We will do so after we determine whether fees will be assessed for this request. In the event your fee waiver request is denied, you will be charged for records in accordance with the DHS Interim FOIA regulations as they apply to educational requestors. As an educational requestor you will be charged 10-cents a page for duplication, although the first 100 pages are free. We have construed the submission of your request to be an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

Should you have any questions, you may contact me at 202-254-5402, or write to: Freedom of Information Act Unit, DHS/Office of Inspector General, Office of Counsel, STOP 2600, 245 Murray Drive, S.W., Building 410, Washington, DC 20528-2600.

Please refer to the above-referenced tracking number if you contact us regarding your request. If we require additional information, we will contact you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Traci Quan".

Traci Quan
FOIA/PA Disclosure Specialist